

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KARL CINA,

X

Plaintiff,

: Case No.: 12-cv-2276 (KBF) (JLC)

v.

: ECF Case

PUERTO RICAN FAMILY INSTITUTE,
INC. and HOPE FOR FAMILIES AND
CHILDREN FOUNDATION, INC.,

Defendants.

X

DECLARATION OF ANDREW W. SINGER

1. I am a member of the law firm of Tannenbaum Helpern Syracuse & Hirschtritt LLP, counsel for Defendants.

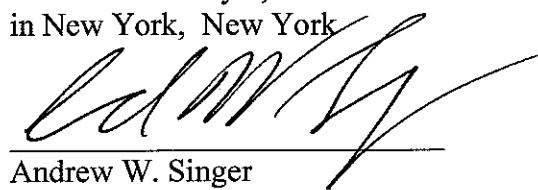
2. I respectfully submit this declaration pursuant to 28 U.S.C. § 1746 to submit to the Court a document that is referenced in the Memorandum of Law in Support of Defendants' Motion to Partially Dismiss the Complaint that is being filed with the Court today.

3. Submitted herewith are true and correct copies of the following:

Exhibit 1: Summons and Complaint dated March 22, 2012.

4. I declare under the penalty of perjury that the foregoing is true and correct.

Executed on May 1, 2012
in New York, New York



Andrew W. Singer

EXHIBIT 1

AO 440 (Rev. 12/09) Summons in a Civil Action

JUDGE FORREST

UNITED STATES DISTRICT COURT

for the

Southern District of New York

KARL CINA

Plaintiff

v.

PUERTO RICAN FAMILY INST., INC., & HOPE FOR
FAMILIES AND CHILDREN FOUNDATION, INC.

Defendant

12 CV 2276

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Hope for Families and Children Foundation, Inc., 145 West 15th Street, New York, NY 10011

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Gerald Jay Resnick, Esq., Resnick Law Group, PC, 100 Eagle Rock Avenue, Suite 301, East Hanover, NJ 07936

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

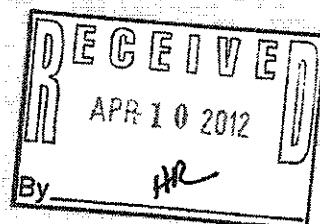
RUBY J. KRAJICK

CLERK OF COURT

Ruby J. Krajick
Signature of Clerk or Deputy Clerk

Date:

MAR 22 2012



AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for (name of individual and title, if any) _____
was received by me on (date) _____.

I personally served the summons on the individual at (place) _____

on (date) _____; or

I left the summons at the individual's residence or usual place of abode with (name) _____,
a person of suitable age and discretion who resides there,

On (date) _____, and mailed a copy to the individual's last known address; or

I served the summons on (name of individual) _____, who is
designated by law to accept service of process on behalf of (name of organization) _____.

on (date) _____; or

I returned the summons unexecuted because _____

Other (specify): _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

JUDGE FORREST

JS 44C/SDNY
REV. 5/2010

CIVIL COVER SHEET

12 CV 2276

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the Civil docket sheet.

PLAINTIFFS

Karl Cline

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Resnick Law Group, PC, 100 Eagle Rock Avenue, Suite 301,
East Hanover, NJ 07936 (973) 781-1204

DEFENDANTS

Puerto Rican Family Institute, Inc. and Hope for Families and
Children Foundation, Inc.

ATTORNEYS (IF KNOWN)

Gerald Jay Resnick, Esq.

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERGENT)

Title VII of Civil Rights Act of 1964

MAR 22 2012

Has this or a similar case been previously filed in SDNY at any time? No Yes Judge Previously AssignedIf yes, was this case Vol Invol Dismissed. No Yes If yes, file date

& Case No.

(PLACE AN [X] IN ONE BOX ONLY)

NATURE OF SUIT

		NATURE OF SUIT				ACTIONS UNDER STATUTES			
		TORTS	CRIMES/TRESPA	PENALTY	BANKRUPTCY	OTHER STATUTES			
CONTRACT									
[] 118 INSURANCE	[] 310 AIRPLANE	[] 382 PERSONAL INJURY -	[] 610 AGRICULTURE	[] 422 APPEAL	[] 408 STATE REAPPORTIONMENT				
[] 128 MARSHAL ACT	[] 315 AIRPLANE PRODUCT LIABILITY	[] 383 MED MALPRACTICE	[] 620 OTHER FOOD & DRUG	[] 423 WITHDRAWAL	[] 418 ANTITRUST				
[] 130 MILLER ACT	[] 320 ASSAULT, LIBEL & SLANDER	[] 385 PERSONAL INJURY PRODUCT LIABILITY	[] 625 DRUG RELATED PROPERTY	[] 28 USC 158	[] 430 BANKS & BANKING				
[] 140 NEGOTIABLE INSTRUMENT	[] 330 FEDERAL EMPLOYERS' LIABILITY	[] 386 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY	[] 630 LIQUOR LAWS	[] 440 DEPORTATION					
[] 158 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	[] 340 MARINE PRODUCT LIABILITY	[] 387 PERSONAL PROPERTY	[] 640 RR & TRUCK	[] 478 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)					
[] 159 MEDICARE ACT	[] 345 MARINE PRODUCT LIABILITY	[] 370 OTHER FRAUD	[] 650 AIRLINE REGS	[] 480 CONSUMER CREDIT					
[] 152 RECOVERY OF DEFAU[T]ED STUDENT LOANS (EXCL VETERANS)	[] 350 MOTOR VEHICLE PRODUCT LIABILITY	[] 371 TRUTH IN LENDING	[] 655 OCCUPATIONAL SAFETY/HEALTH	[] 490 CASUALTY/ SATELLITE TV					
[] 163 RECOVERY OF OVERPAYMENT OF VETERANS' BENEFITS	[] 355 MOTOR VEHICLE PRODUCT LIABILITY	[] 380 OTHER PERSONAL INJURY	[] 660 OTHER	[] 510 SELECTIVE SERVICE					
[] 169 STOCKHOLDERS SUITS	[] 360 OTHER PERSONAL INJURY	[] 385 PROPERTY DAMAGE	[] 710 FAIR LABOR STANDARDS ACT	[] 560 SECURITIES/ COMMODITIES/ EXCHANGE					
[] 193 OTHER CONTRACT LIABILITY		[] 386 PROPERTY DAMAGE	[] 720 LABOR/MGMT RELATIONS	[] 575 CUSTOMER CHALLENGE					
[] 195 CONTRACT PRODUCT LIABILITY		[] 387 PRODUCT LIABILITY	[] 730 LABOR/MDMT REPORTING & DISCLOSURE ACT	[] 580 12 USC 3410					
[] 196 FRANCHISE			[] 740 RAILWAY LABOR ACT	[] 590 OTHER STATUTORY ACTIONS					
REAL PROPERTY		ACTIONS UNDER STATUTES	[] 750 OTHER LABOR LITIGATION	[] 670 TAXES (U.S. Plaintiff or Defendant)	[] 595 AGRICULTURAL ACTS				
[] 218 LAND CONDEMNATION	[] 441 VOTING	CML RIGHTS	[] 751 EMPL. RET. INC.	[] 680 IRS-THIRD PARTY	[] 692 ECONOMIC STABILIZATION ACT				
[] 220 FORECLOSURE	[] 442 EMPLOYMENT	PRISONER PETITIONS	[] 760 SECURITY ACT	[] 685 26 USC 7609	[] 693 ENVIRONMENTAL MATTERS				
[] 230 RENT/LIASE & EJECTMENT	[] 443 HOUSING/ACCOMMODATIONS	[] 150 MOTIONS TO VACATE SENTENCE			[] 694 ENERGY ALLOCATION ACT				
[] 240 TORTS TO LAND	[] 444 WELFARE	[] 151 MOTIONS TO VACATE SENTENCE	[] 761 IMMIGRATION		[] 695 FREEDOM OF INFORMATION ACT				
[] 245 TORT PRODUCT LIABILITY	[] 445 AMERICANS WITH DISABILITIES -	[] 152 HABEAS CORPUS	[] 762 NATURALIZATION APPLICATION	[] 700 APPEAL OF FEE DETERMINATION					
[] 260 ALL OTHER REAL PROPERTY	[] 446 AMERICANS WITH DISABILITIES - OTHER	[] 153 DEATH PENALTY	[] 763 HABEAS CORPUS ALIEN DETAINEE	[] 705 EQUAL ACCESS TO JUSTICE					
		[] 140 OTHER CML RIGHTS	[] 154 CIVIL RIGHTS	[] 764 OTHER IMMIGRATION ACTIONS	[] 750 CONSTITUTIONALITY OF STATE STATUTES				

Check if demanded in complaint.

 CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND S.

OTHER

JUDGE

DOCKET NUMBER

Check YES only if demanded in complaint
JURY DEMAND: YES NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN X IN ONE BOX ONLY)

- | | | | | | | |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2a. Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from (Specify District) | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge Judgment |
| <input type="checkbox"/> 2b. Removed from State Court AND at least one party is pro se. | | | | | | |

(PLACE AN X IN ONE BOX ONLY)

- | | | | | | | |
|---|---|---|--------------------------------------|--|--|--|
| <input type="checkbox"/> 1 U.S. PLAINTIFF | <input type="checkbox"/> 2 U.S. DEFENDANT | <input checked="" type="checkbox"/> 3 FEDERAL QUESTION (U.S. NOT A PARTY) | <input type="checkbox"/> 4 DIVERSITY | IF DIVERSITY, INDICATE CITIZENSHIP BELOW.
(28 USC 1332, 1331) | | |
|---|---|---|--------------------------------------|--|--|--|

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	<input type="checkbox"/> PTF <input type="checkbox"/> DEF [] 11	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	<input type="checkbox"/> PTF <input type="checkbox"/> DEF [] 13 [] 13	INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	<input type="checkbox"/> PTF <input type="checkbox"/> DEF [] 15 [] 15
CITIZEN OF ANOTHER STATE	<input type="checkbox"/> PTF <input type="checkbox"/> DEF [] 12	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE	<input type="checkbox"/> PTF <input type="checkbox"/> DEF [] 14	FOREIGN NATION	<input type="checkbox"/> PTF <input type="checkbox"/> DEF [] 16 [] 16

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Karl Cina, 27 Honeyflower Drive, Yardville, New Jersey 08620 in Mercer County

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Puerto Rican Family Institute, Inc., 145 West 15th Street, New York, NY 10011 in New York County and Hope for Families and Children Foundation, Inc., 145 West 15th Street, New York, NY 10011 in New York County

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: WHITE PLAINS MANHATTAN
(DO NOT check either box if this is a PRISONER PETITION.)

DATE 3/24/12 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

 NO
 YES (DATE ADMITTED Mo. Feb Yr. 2000)
Attorney Bar Code #GR5741

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge

MAC MURRAY COFF

is so Designated.

Ruby J. Krajick, Clerk of Court by

Deputy Clerk, DATED

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

JUDGE FORREST

RESNICK LAW GROUP, PC
100 Eagle Rock Avenue, Suite 301
East Hanover, New Jersey 07936
(973) 781-1204
Gerald J. Resnick (GJR-5741)

12 CV 2276

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

KARL CINA

Civil Action No.:

Plaintiff,

vs.

PUERTO RICAN FAMILY INSTITUTE,
INC. and HOPE FOR FAMILIES AND
CHILDREN FOUNDATION, INC.

Defendants.

COMPLAINT AND JURY DEMAND



Plaintiff, Karl Cina, residing at 27 Honeyflower Drive, Yardville, New Jersey 08620

by way of Complaint against the defendants, alleges and says as follows:

JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1333(a)(3) and (4); the supplemental jurisdiction of this Court over state claims is invoked under 28 U.S.C. § 1337(a).

2. Venue is proper within this District because the unlawful practices complained of herein all occurred within the Southern District of New York.

3. The causes of actions alleged seek to redress acts of discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., New York Labor Law § 740, and New York Civil Service Law § 75-b.

4. The actions alleged herein were committed by the defendants and their officials, agents, and employees.

5. Prior to filing this civil action, Plaintiff filed a written charge under oath asserting reverse discrimination due to race and national origin with the Equal Employment Opportunity Commission (hereinafter "EEOC") within 300 calendar days of his termination.

6. On December 20, 2011, the EEOC issued a Notice of Right to Sue, which was received by Plaintiff on or about December 23, 2011.

PARTIES

7. At all relevant times, the plaintiff, Karl Cina (hereinafter "Plaintiff" or "Plaintiff"), was employed as Controller by defendant Puerto Rican Family Institute, Inc. and by defendant Hope for Families and Children Foundation, Inc., until his unlawful termination on January 4, 2011. He is Caucasian, is a natural-born American, and is not of Puerto Rican or Latino descent.

8. At all relevant times, defendant Puerto Rican Family Institute, Inc. (hereinafter "PRFI") is a corporation with offices at 145 West 15th Street, New York, NY 10011, which employed Plaintiff as Controller until his unlawful termination on January 4, 2011.

9. At all relevant times, defendant Hope for Families and Children Foundation, Inc. (hereinafter "HFCF") is a corporation with offices at 145 West 15th Street, New York, NY 10011, which employed Plaintiff as Controller until his unlawful termination on January 4, 2011. HFCF is the supporting organization and fund raising arm of PRFI. (PRFI and HFCF are hereinafter collectively referred to as "Defendants.")

FACTUAL BACKGROUND

10. At all relevant times, approximately 90% of PRFI's staff and approximately 75% of HFCF's staff were Latino, of which the majority is Puerto Rican.

11. At all relevant times, all of PRFI's Board members, and all but one of HFCF's Board members, were Latino, of which the majority is Puerto Rican.

12. On several occasions prior to Plaintiff's unlawful termination, employees of Latino descent, particularly those that were Puerto Rican, were treated more favorably than non-Latino, non-Puerto Rican employees.

13. For instance, Puerto Rican and other Latino employees were not terminated or disciplined for offenses such as theft, failing to oversee invoices, failing to cease payroll for separated employees, disclosing sensitive information, violating Medicaid and other federal and state regulations, violating company policies and procedures.

14. Moreover, at least one Puerto Rican employee raised concerns about the President/CEO's transgressions, and did not suffer retaliation.

15. At all relevant times until his unlawful termination, Mr. Cina, a Caucasian and natural-born American (not of Puerto Rican or Latino descent), served as Defendants' Controller. He had an outstanding record for 10 years, earned the company hundreds of thousands in generating new revenue, reduced expenses, and strongly contributed to the growth of PRFI's budget from \$13 million to over \$40 million.

16. On or about June 3, 2010, on information and belief, Dr. Mildred Allen, President of HFCF and Board member of PRFI who is Puerto Rican stated, in word or in substance: "All the Board members and people in key positions with PRFI are Latino. Then why isn't the Controller

Latino too. It's frustrating to me and other Board members that Mr. Cina doesn't speak Spanish and we have to translate for him into English all the time."

17. Later in 2010, Plaintiff was unjustly chastised and disciplined for infractions he did not commit, while Latino and Puerto Rican employees were not disciplined for more serious and glaring misconduct.

18. On November 29, 2010, Plaintiff met privately and confidentially with Mrs. Maria Elena Girone, President and CEO, to discuss numerous activities that he believed not only violate the Code of Ethics, Business Conduct and Internal Controls, but also numerous laws and state regulations.

19. Among other disclosures and objections, Plaintiff raised the fact that Mrs. Girone charged on her corporate American Express in excess of \$1,000 for a party held at her daughter's house to celebrate the appointment of the new Regional Director of Region 2 of the U.S. Department of Health and Human Services Administration for Children and Families. This was in violation of Head Start and Early Head Start policy and a conflict of interest.

20. Among other disclosures and objections, Plaintiff raised the fact that Mrs. Girone received her daily \$75 stipend for meals while she was out of town on business, even though she charged all of her meals on her corporate American Express card.

21. Among other disclosures and objections, Plaintiff raised the fact that, at Mrs. Girone's directive, the company had previously purchased and then leased a vehicle for her exclusive use. Mrs. Girone had the company pay for her personal vehicle expenses, including gasoline, tolls, personal parking costs and moving violations, with her corporate American Express card and company checks.

22. Among other disclosures and objections, Plaintiff raised the fact that Mrs. Girone paid for her home Internet service on her corporate American Express card.

23. Among other disclosures and objections, Plaintiff raised the fact that Mrs. Girone had the company's maintenance staff work at her home on company time and at the company's expense.

24. Among other disclosures and objections, Plaintiff raised the fact that Mrs. Girone had the company's maintenance staff use another company vehicle to transport themselves to her home, depriving the residential programs from using the vehicle for entire weekends at a stretch in violation of New York State Office for People With Developmental Disabilities (formerly Office of Mental Retardation and Developmental Disabilities).

25. Among other disclosures and objections, Plaintiff raised the fact that Mrs. Girone forced employees to attend and pay for fundraising events, the annual gala, in particular, without paying for herself, family members or friends.

26. At the end of the conversation Mrs. Girone asked Plaintiff "How do you expect me to work with you after this?"

27. Plaintiff also raised his disclosures and objections with the company's Vice President, Elvira R. Gonzalez.

28. As detailed below, starting on or about December 14, 2010, Mrs. Girone began retaliating against Plaintiff as a result of the objections that he voiced.

29. Mrs. Girone also began discriminating against Plaintiff because he was Caucasian and/or a natural-born American and/or not of Puerto Rican or Latino descent.

30. For instance, Mrs. Girone excluded Plaintiff from the company's scheduled Board Meeting. Plaintiff had always presented his fiscal report at each Board and Executive Committee Meeting. This was the only time in his nearly 10-year career with PRFI that Plaintiff was prohibited from attending a Board Meeting.

31. In addition, on information and belief, Mrs. Girone defamed Plaintiff's character with the Board.

32. Moreover, on December 24, 2010 Mrs. Girone gave Plaintiff a written warning indicating that he would be suspended for two weeks without pay, and placed him on "probation," wrongfully accusing him of violating a company policy.

33. Finally, on January 4, 2011, Mrs. Girone summoned Plaintiff into her office and informed Plaintiff that the company had found "other matters of concern," and swiftly fired him.

34. When Plaintiff asked what "other matters" she was referring to, Mrs. Girone refused to elaborate and told Plaintiff she had the right to terminate him at will. She then gave Plaintiff 15 minutes to collect his personal belongings and leave the premises.

35. Defendants terminated Plaintiff's employment in retaliation for his objecting to Mrs. Girone's illegal and otherwise inappropriate behavior.

36. Defendants terminated Plaintiff's employment because of his race and national origin – for being Caucasian and/or a natural-born American and/or not of Puerto Rican or Latino descent.

37. Defendants even refused to pay Plaintiff the full amount due for his accrued, unused vacation time.

38. The Head Start and Early Head Start Policy Council (45 C.F.R. § 1304.50(d)(1)xi)

did not approve Plaintiff a termination as required.

39. On information and belief, Mrs. Girone continues to speak ill of Plaintiff in meetings she has held individually and collectively with each of the company's middle managers after he was terminated.

40. At all times pertinent hereunto, the discriminatory and retaliatory conduct of Defendants have caused Plaintiff to suffer extraordinary harm, including substantial loss of pay and benefits, including pension, health insurance, and unpaid sick and vacation days, extreme emotional and mental distress, and these and other damages.

41. Defendants' discriminatory and retaliatory actions toward Plaintiff were intentional and especially egregious.

FIRST COUNT

(Title VII Discrimination (Race) - in Violation of 42 U.S.C. § 2000e-2(a)(1))

42. Plaintiff repeats and realleges each and every allegation set forth above, as if set forth at length herein.

43. Plaintiff, as a member of the Caucasian race, is protected from acts of reverse discrimination.

44. On or about January 4, 2011, Plaintiff was wrongfully discharged by Defendants because of his race.

45. Defendants' wrongful discharge of Plaintiff based upon race amounted to unlawful discrimination in violation of 42 U.S.C. § 2000e-2(a)(1).

WHEREFORE, plaintiff seeks Judgment against the Defendants as follows:

a. Compensatory damages, including past and future lost wages, salary, and employment benefi

- b. Damages for emotional distress;
- c. Pre-and post-judgment interest;
- d. Reasonable costs, including attorney's fees, expert witness fees and other costs incurred in connection with this litigation;
- e. Punitive damages; and
- f. Such other and further relief as this Court deems equitable and just under the circumstances.

SECOND COUNT

(Title VII Discrimination (National Origin) - in Violation of 42 U.S.C. § 2000e-2(a)(1))

46. Plaintiff repeats and realleges each and every allegation set forth above, as if set forth at length herein.

47. On or about January 4, 2011, Plaintiff was wrongfully discharged by Defendants because of national origin.

48. Defendants' wrongful discharge of Plaintiff based upon national origin amounted to unlawful discrimination in violation of 42 U.S.C. § 2000e-2(a)(1).

WHEREFORE, plaintiff seeks Judgment against the Defendants as follows:

- a. Compensatory damages, including past and future lost wages, salary, and employment benefit;
- b. Damages for emotional distress;
- c. Pre-and post-judgment interest;
- d. Reasonable costs, including attorney's fees, expert witness fees and other costs incurred in connection with this litigation;
- e. Punitive damages; and
- f. Such other and further relief as this Court deems equitable and just under the circumstances.

THIRD COUNT

(New York Whistleblower Law - Violation of New York Labor Law § 740)

49. Plaintiff repeats and realleges each and every allegation set forth above, as if set forth at length herein.

50. On or about January 4, 2011, Plaintiff was wrongfully discharged by Defendants because he disclosed to a supervisor an activity, policy, or practice of Defendants that was in violation of law, rule or regulation, which violation created and presented a substantial and specific danger to the public; and/or because he objected to, or refused to participate in any such activity, policy or practice in violation of a law, rule or regulation.

51. Plaintiff engaged in protected "whistleblower" activity.

52. Plaintiff suffered one or more adverse employment actions committed by Defendants.

53. There exists a causal link between Plaintiff's protected "whistleblower" activity and the adverse employment action(s) he suffered.

54. Defendants' wrongful discharge of Plaintiff based upon his protected "whistleblower" activity amounted to unlawful retaliation in violation of New York Labor Law § 740.

WHEREFORE, plaintiff seeks Judgment against the Defendants as follows:

- a. Compensatory damages, including past and future lost wages, salary, and employment benefit
- b. Damages for emotional distress;
- c. Pre-and post-judgment interest;
- d. Reasonable costs, including attorney's fees, expert witness fees and other costs incurred in connection with this litigation;
- e. Punitive damages; and

f. Such other and further relief as this Court deems equitable and just under the circumstances.

FOURTH COUNT
(Breach of Contract)

55. Plaintiff repeats and realleges each and every allegation set forth above, as if set forth at length herein.

56. At all relevant times prior to Plaintiff's unlawful termination, Defendants had in place a Whistleblower Protection Policy, which provided:

No Board Member, corporate officer, director, manager, supervisor, employee or business associate who in good faith reports a violation of the Code shall suffer harassment, retaliation, or adverse employment consequences. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment.

57. Defendants took specific actions to make Plaintiff aware of such express, written policy.

58. Such express, written policy amounted to an enforceable agreement, binding Defendants to their promise that no employee who in good faith reports a violation of the Code shall suffer harassment, retaliation, or adverse employment consequences.

59. Plaintiff detrimentally relied on such policy.

60. On or about January 4, 2011, Plaintiff was wrongfully discharged by Defendants because he, in good faith, reported violations of the Code.

61. Plaintiff engaged in protected "whistleblower" activity.

62. Plaintiff suffered one or more adverse employment actions committed by Defendants.

63. There exists a causal link between Plaintiff's protected "whistleblower" activity and the adverse employment action(s) he suffered.

64. Defendants' wrongful discharge of Plaintiff based upon his protected "whistleblower" activity amounted to a breach of contract.

WHEREFORE, plaintiff seeks Judgment against the Defendants as follows:

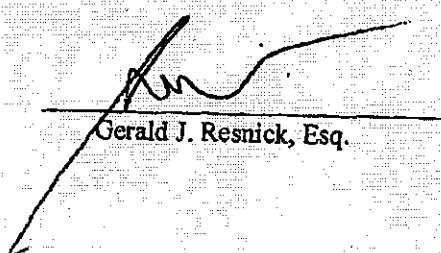
- a. Compensatory damages, including past and future lost wages, salary, and employment benefit
- b. Damages for emotional distress;
- c. Pre-and post-judgment interest;
- d. Reasonable costs, including attorney's fees, expert witness fees and other costs incurred in connection with this litigation;
- e. Punitive damages; and
- f. Such other and further relief as this Court deems equitable and just under the circumstances.

JURY DEMAND

The plaintiff hereby demands a trial by jury for all issues so triable.

Resnick Law Group, P.C.
Attorney for Plaintiff

Dated: March 22/2012

By: 

Gerald J. Resnick, Esq.